

REMARKS

Prior to this Amendment, claims 1-3, 5, 6, 9-13, 19-29 and 61-68 were pending in the application. As no claim amendments are presented with this filing, claims 1-3, 5, 6, 9-13, 19-29 and 61-68 remain for consideration by the Examiner.

Double Patenting

In the Final Office Action, the Examiner rejected claims 1-3, 5-6, 9-13, 19-29, 61-68 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 7,236,987. The Examiner indicated that a timely-filed terminal disclaimer in compliance with 37 CFR 1.321(c) and 37 CFR 3.73(b) could be used to overcome this double patenting rejection.

At pages 5-6 of the Final Office Action, the Examiner asserted that the Assignee (Oracle America, Inc.) has not established its ownership interest in the application to support the terminal disclaimer ("previously-filed terminal disclaimer") filed with Applicant's response of September 12, 2011. More specifically, the Examiner indicated that the assigned listed on the previously-filed terminal disclaimer was different than the assigned listed on the 3.73(b) statement submitted on November 4, 2008.

In response, Applicant now submits a newly executed 3.73(b) statement which establishes the ownership interest of the Assignee, Oracle America, Inc., in the present application. As seen on the newly executed 3.73(b) statement, Oracle America, Inc. is the Assignee of the entire right and interest in the present application by virtue of a chain of title from the inventors of the present application to Sun Microsystems, Inc., and then from Sun Microsystems, Inc. to Oracle America, Inc.

Furthermore, Applicant also now submits a terminal disclaimer in compliance with 37 CFR 1.321 and signed by the Assignee of the present application which is believed to overcome the non-statutory double-patenting rejection of claims 1-3, 5-6, 9-13, 19-29, 61-68. Accordingly, Applicant requests withdrawal of this rejection.

Allowable Subject Matter

In the Office Action, the above-discussed non-statutory double patenting rejection was the only rejection of claims 1-3, 5, 6, 9-13, 19-29 and 61-68. There being no further outstanding rejections, Applicant respectfully requests allowance of claims 1-3, 5-6, 9-13, 19-29, 61-68.

Conclusions

Based upon the foregoing, Applicant believes that all pending claims are in condition for allowance and such disposition is respectfully requested.

No fees are believed due with this filing. However, please credit any overpayment or charge any underpayment to Deposit Account No. 50-1419.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

Date: November 17, 2011

By: 

Attachments: Terminal Disclaimer
37 CFR 3.73(b) Statement

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